

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CODY KENT ELKSHOULDER,

Defendant.

CR 18–62–BLG–DLC

ORDER

Before the Court is United States Magistrate Judge John T. Johnston’s Findings and Recommendations Regarding Revocation of Supervised Release. (Doc. 69.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Johnston found, based on Mr. Elkshoulder’s admissions at the hearing, that Mr. Elkshoulder violated the condition of his supervised release that he report to the United States Probation Office within 72 hours of his release from prison. (Doc. 69 at 2.) Judge Johnston recommends that this Court revoke Mr.

Elkshoulder's supervised release and sentence him to a custodial sentence of 9 months, with no supervised release to follow. (*Id.* at 3.) The Court finds no clear error in Judge Johnston's Findings and Recommendations and adopts them in full.

Accordingly, IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 69) are ADOPTED in full. Mr. Elkshoulder shall be sentenced in conformity with Judge Johnston's recommendation in the judgment filed concurrently with this Order.

DATED this 4th day of January, 2023.



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Dana L. Christensen, District Judge  
United States District Court